

**YAVAPAI COUNTY SUBSTANCE
ABUSE COALITION - *MATFORCE*
COMMENTS ON INITIAL DRAFT RULES
ARIZONA MEDICAL MARIJUANA INITIATIVE
January 7, 2011**

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II. GUIDING POLICIES

1. Cultivation, sale, transportation, possession and use of marijuana are criminal offenses in the state of Arizona. Medical marijuana is a narrow exception to that policy.

It is the policy of the State of Arizona that marijuana production, possession, use, sale or transportation are all felony offenses. Through the initiative process the people of Arizona have carved out a narrow exception to the criminalization of marijuana. The initiative allows those individuals that have a bona-fide medical need for marijuana use to acquire, possess, and use marijuana to treat symptoms associated with a narrow range of medical conditions. However, the guiding policy of this state – and the federal government – is that it remains a crime to produce, use, sell or transport marijuana in Arizona.

In other states such as California and Colorado, insufficient regulation and enforcement has allowed the “exception” of medical marijuana to swallow the “rule” of marijuana criminalization. This must not be allowed to happen in Arizona. In order to enforce Arizona’s strong policy of marijuana criminalization, policies and procedures developed by DHS and the legislature under the medical use exception should, to the greatest extent possible, control marijuana production, transportation, sale, possession and use to insure that marijuana is allowed for medical purposes only. Medical marijuana should not be allowed to become a source of illicit marijuana; production should be limited to only what is necessary to supply legitimate demand and should be strictly tracked; medical need should be based on medical facts subject to objective review; employers should not be forced to tolerate impaired employees or protect employees that are in violation of federal law.

To these ends we suggest the following:

II. DISPENSARIES

1. DHS must require geographic dispersion of dispensaries.

Rationale:

The initiative allows individuals and caregivers to produce their own marijuana if they live more than 25 miles from a licensed dispensary (the 25 mile circle surrounding a dispensary have been called “halos.”) Individual production of marijuana is far more difficult to monitor and control than production by dispensaries. This marijuana can easily be converted to illicit use and the production location will attract criminal activity as well. Lawful marijuana production for medical purposes by individuals should be eliminated to the greatest extent possible.

DHS should adopt policies that mandate dispensary locations that cover the state in dispensary “halos” that have the effect of preventing individual marijuana production. DHS should have the ability to consider in its sole discretion whether or not the geographic location of a proposed dispensary is appropriate. DHS regulations should allow DHS to award exclusive dispensary rights to geographic areas. DHS regulations should allow DHS to mandate that an applicant, as a condition of granting a dispensary certificate, also apply for and obtain a dispensary certificate at another location in the state designated by DHS. In short, DHS policies must insure that most if not all of the state is covered with dispensary “halos” so that no individual will be permitted to produce their own marijuana. This may be best accomplished by requiring dispensaries in urban areas to operate dispensaries in rural locations as a condition of their dispensary licenses.

Implementation:

Substitute for R9-17-107(F) as follows:

“The Department may in its sole discretion consider the geographic location of the proposed dispensary in determining whether to grant a certificate. In its sole discretion, the Department may grant exclusive dispensary certification to any geographic area of the State. The Department may as a condition of granting a certificate pursuant to A.R.S. Title 36 Chapter 28.1 and this Chapter, require the applicant for dispensary registration to apply for, obtain, and maintain another dispensary within the state of Arizona within 2 miles from a location designated by the Department.”

DISPENSARIES, CONT.

2. Each location where marijuana is produced, infused or sold must have a separate dispensary certification.

Rationale:

The Rules as currently written would double and possibly triple the number of dispensaries within the state. The Rules as written allow a dispensary to both have a separate location for cultivation and a separate location for infusion.

A.R.S. §36-2801 defines “Nonprofit medical marijuana dispensary” as an entity that acquires, possesses, cultivates, manufactures, delivers, transports supplies, sells or dispenses marijuana . . .”. A.R.S. §36-2804(C) limits the number of dispensary certificates to approximately 124. A.R.S. §36-2806(C) requires each certified nonprofit marijuana dispensary to have a single secure entrance.

If the holder of a single dispensary certificate is allowed to have multiple locations for sale or cultivation, or to contract with others to infuse food, it would be physically impossible for the dispensary certificate holder to comply with A.R.S. §36-2806(C). Thus, when these sections are read together, it is clear the intent of the initiative is to require each physical location where marijuana is produced, infused or sold have a separate dispensary certificate that counts toward the total allowed in the state under A.R.S. §36-2804(C). This rationale also comports with the overall goal of maintaining tight control over medical marijuana use so it cannot be diverted to illicit use.

Implementation:

- (a) Modify R9-17-302(B)(5) by striking “and, if applicable, as the dispensary’s cultivation site.”
- (b) Modify R9-17-304 to strike all references to a Dispensary’s Cultivation Site.
- (c) Modify R9-17-306 to strike all references to a dispensary’s cultivation site.
- (d) Modify R9-17-307 to clarify that cultivation sites require separate dispensary certification.
- (e) Modify R9-17-313(B)(5) and (6) to clarify that food infusion sites require separate dispensary certification.
- (f) Modify R9-17-315 to clarify that cultivation and infusion sites require separate dispensary certification.
- (g) Modify R9-17-316 to clarify that infusion sites require separate dispensary certification.
- (h) Strike R9-17-101(6)

DISPENSARIES, CONT.

3. DHS may delegate inspection of dispensaries to local authorities.

Rationale:

Pursuant to A.R.S. §36-136, DHS may delegate to local authorities their power to regulate matters of health and welfare in the state. Nothing in the initiative forbids delegation of inspection authority to local governments. The ability to delegate this authority will allow DHS to better effectuate control of dispensaries, and will give local authorities the ability to better control the health and safety impacts of dispensaries in their communities.

Implementation:

Add R9-17-306(H): “The Department may delegate its authority under this section to local authority pursuant to A.R.S. §36-136.”

DISPENSARIES, CONT.

4. Reasonable notice of routine inspections should be 24 hours, and occur within posted business hours.

Rationale:

Inspection of dispensaries is designed to insure that the dispensary is operating within the limits of the law. The rule as currently written gives the dispensary the option of refusing a time suggested by DHS. The initiative requires only that the inspection be reasonable. Given the strong policy of this state against marijuana possession or use, it is imperative that DHS inspections provide an accurate picture of the dispensary's operation. 24 hour notice of an inspection to occur during posted business hours fulfills the statewide policy against illicit marijuana use and fulfills the "reasonable notice" provision of the initiative.

Implementation:

Modify R9-17-306(C) as follows:

"Except as provided in subsection (E), routine on-site inspection of a dispensary shall occur no earlier than 24 hours after the Department submits written notice of the Department's intent to inspect the dispensary. Routine inspections under this subsection shall occur during the dispensary's normal business hours"

DISPENSARIES, CONT.

5. Dispensaries must dispense marijuana and marijuana infused products in DHS approved and supplied containers.

Rationale:

In order to strictly control medical marijuana, it is important that DHS and law enforcement be able to clearly and easily distinguish between marijuana possessed, sold, or transported pursuant to the initiative. The containers must be distinctive and traceable with bar codes or other computerized tracking system. Distinctive containers that are registered or supplied by DHS that can be easily identified will help DHS and law enforcement insure that marijuana encountered is in fact produced pursuant to the initiative and is used strictly for medical use. The containers should be sealed when dispensed. DHS should strongly consider developing standardized containers and requiring dispensaries to obtain those containers from DHS.

Implementation:

Add to R9-17-314(A)(7): “The marijuana shall be dispensed in a sealed container approved by the Department. The containers shall contain a bar code or other computerized tracking system approved by the Department.”

DISPENSARIES, CONT.

6. Dispensaries may not dispense a smokeable form of marijuana unless the qualifying patient is approved by DHS to receive it.

Rationale:

Based on the proven health risk of smoking, for the past 45 years the medical community has worked to curtail the use of smoking in the United States. In November, 2006 Arizona voters passed the Smoke-Free Arizona Act (A.R.S. §36-601.01), severely curtailing the use of smoking in the state. For most people, marijuana's alleged therapeutic benefits are effective when it is consumed orally. Given the serious negative health effects that come with smoking any product (including marijuana), the smoking of marijuana should be strongly discouraged.

Implementation:

Modify R9-17-311 to require the dispensary verify the patient is authorized to receive marijuana in a smokable form prior to dispensing.

Include the requirement that all smokeable marijuana must be dispensed in a container that prominently displays a warning in substantially the following form: "Marijuana smoke contains known carcinogens and has been determined to be carcinogenic by the Arizona Department of Health Services. Although preliminary research shows marijuana may contain substances that may help in the treatment of cancer, this research also shows that smoking marijuana may be linked to cancer of the lung, skin of the head and neck, testicle and bladder."

DISPENSARIES, CONT.

7. Dispensaries should be required to file public reports providing information on the number of customers, marijuana sales volume, and financial status of the dispensary.

Rationale:

In order to insure that dispensaries are not operating illicitly, it is important that the legislature, DHS, local authorities, and the public have information regarding a dispensary's number of customers, volume of marijuana, and financial condition. A dispensary need not reveal specific information about individual customers in order to publish public reports regarding the number of customers, the volume of marijuana dispensed, the kind of marijuana dispensed (smokeable or infused food), the receipts of sales and costs expended. This information will allow the legislature, DHS, local law enforcement and the public to insure that the dispensary is not in reality a "front" for criminal activity, and that the marijuana produced and dispensed only to those with legitimate medical need.

Implementation:

Add as R9-17-312(E):

"Not less than annually and prior to recertification under R9-17-305, a dispensary shall submit to the Department a report covering the period from the last certificate was issued to that dispensary that contains the following information: (1) the total number of sales of marijuana products, detailing each kind of product sold; (2) the total amount of usable marijuana sold; (3) the total amount of usable marijuana produced or otherwise procured; (4) the total amount of marijuana on hand; (5) the total amount of cash or other reimbursement realized for the sale of marijuana; (6) the total amount of cash or other reimbursements paid for producing or acquiring marijuana."

III. PATIENTS, CAREGIVERS AND DISPENSARY AGENTS

1. Caregivers must pay a separate fee for each patient they care for.

Rationale:

Caregivers may possess and assist in the use of marijuana for up to 5 qualifying patients under the act. Each patient that designates a caregiver requires additional administrative scrutiny by DHS, increasing administrative costs. A.R.S. §36-2803(A)(5)(a) requires that the total revenue from the fees for registry identification cards and dispensary registration certificates must be sufficient to implement and administer the program. Given the additional administrative costs inherent in a caregiver assisting multiple patients, and to insure that caregiver activity is adequately monitored, it is reasonable that a caregiver be required to pay additional fees for additional patients.

Implementation:

Modify R9-17-102(5)(b) and (6)(b) as follows: “Designated Caregiver, \$200 per patient for which caregiving services are provided.”

PATIENTS, CAREGIVERS AND DISPENSARY AGENTS, CONT.

2. Caregivers must undergo training (at least 8 hours) on, and pass a test on, the effect and hazards of marijuana, the terms of the initiative, and DHS rules governing medical marijuana.

Rationale:

Caregivers under the initiative administer marijuana to qualifying patients. They are the link between the patient and the dispensary, and need to know the effects and alternatives to marijuana to properly administer medical marijuana. Without adequate training, the caregiver runs the risk of improperly procuring or administering marijuana to the patient.

Implementation:

(a) Add R9-17-202(F)(6)(l): “Certification of completion of a Caregiver Training Class administered or approved by the Department.”

(b) Add R9-17-206: “The Department shall develop a Caregiver Training Class of no less than 8 hours to teach caregiver applicants about the effects and hazards of marijuana, alternatives to marijuana use, the terms of the Arizona Medical Marijuana Initiative, and these rules. The class shall include a test designed to reasonably test caregivers about the subjects taught in the class. Before issuing a certificate of completion to caregiver applicants, the applicant shall pass the test with a score of at least 80%.”

PATIENTS, CAREGIVERS AND DISPENSARY AGENTS, CONT.

3. Caregivers, Cardholders and Dispensary Agents must be residents of Arizona and must possess an Arizona driver's license or identification card.

Rationale:

The initiative declares that its purpose is to remove state-level criminal penalties for medical marijuana use for the citizens of Arizona. Other states such as California and Colorado have allowed non-citizens to participate in medical marijuana programs, which resulted in a tremendous increase of illicit use of marijuana due to cross-border smuggling of marijuana. The use or administration of marijuana under the initiative should be narrowly tailored for the use and benefit of Arizona citizens that are in need of medical marijuana. Patients, Caregivers, and Dispensing Agents should be required to prove they are citizens of the State of Arizona by producing identification cards issued only to Arizona citizens – an Arizona Driver's License, or an Arizona Identification Card.

The current draft of rules allows a patient or caregiver to obtain a registry card by showing a U.S. passport as proof of identity. A U.S. passport contains no information about the person's state of residency. In addition, because of the potential for criminal activity inherent in a person's possession of marijuana, registry with the Department of Public Safety's driver's license/identification card system will allow law enforcement to obtain additional information about a caregiver/patient that is involved with criminal activity.

Implementation:

- (a) Strike R9-17-105(F)
- (b) Strike R9-17-107(F)(1)(d)(iv)
- (c) Strike R9-17-202(F)(2)(d)
- (d) Strike R9-17-202(F)(6)(i)(iv)
- (e) Strike R9-17-202(G)(6)(d)
- (f) Strike R9-17-203(A)(2)(i)(c)
- (g) Strike R9-17-204(A)(5)(f)(iv)
- (h) Strike R9-17-308(5)(d)

PATIENTS, CAREGIVERS AND DISPENSARY AGENTS, CONT.

4. Caregivers must be subject to the same security, inspection and reporting requirements as dispensaries.

Rationale:

Caregivers are operating small dispensaries. They acquire marijuana in the same fashion as dispensaries, and distribute the marijuana to others. They are subject to the same security risks as dispensaries, and have the same potential for diverting marijuana to illicit activities as dispensaries.

Implementation:

Apply appropriate provisions of Article 3 (R9-17-301 to R9-17-320) to caregivers allowed to cultivate marijuana for patients.

PATIENTS, CAREGIVERS AND DISPENSARY AGENTS, CONT.

5. Patients, or caregivers acting on behalf of patients, may not possess smokeable marijuana unless specifically authorized by DHS.

Rationale:

Based on the proven health risk of smoking, for the past 45 years the medical community has worked to curtail the use of smoking in the United States. In November, 2006 Arizona voters passed the Smoke-Free Arizona Act (A.R.S. §36-601.01), severely curtailing smoking in the state. For most people, marijuana's alleged therapeutic benefits are effective when it is consumed orally. Given the serious negative health effects that come with smoking any product (including marijuana), the smoking of marijuana should be strongly discouraged.

Implementation:

(a) Add to R9-17-202(F)(5) the following: "If the physician is recommending the patient be dispensed a smokeable form of marijuana, then a statement detailing the at least 3 efforts of the physician and patient to administer infused marijuana, a statement detailing why such attempts were unsuccessful, and a declaration from the physician why only smokeable marijuana will alleviate the patient's condition."

(b) Add to R9-17-202(G)(13) the following: "If the physician is recommending the patient be dispensed a smokeable form of marijuana, then a statement detailing the at least 3 efforts of the physician and patient to administer infused marijuana, a statement detailing why such attempts were unsuccessful, and a declaration from the physician why only smokeable marijuana will alleviate the patient's condition."

(c) Add to R9-17-204(B)(4)(f) and R9-17-204(B)(4)(g) the following: "If the physician is recommending the patient be dispensed a smokeable form of marijuana, then a statement detailing the at least 3 efforts of the physician and patient to administer infused marijuana, a statement detailing why such attempts were unsuccessful, and a declaration from the physician why only smokeable marijuana will alleviate the patient's condition."

(c) Issue patient and caregiver cards that clearly indicate if the patient is allowed to possess smokeable marijuana.

(d) Indicate in the Department data base available to dispensaries and law enforcement whether the patient or caregiver is allowed to possess smokeable marijuana.

PATIENTS, CAREGIVERS AND DISPENSARY AGENTS, CONT.

6. Private marijuana use “clubs” should be prohibited.

Rationale:

As written, Rule R9-17-101(18) (a) would exclude private clubs from the definition of public place. This would allow marijuana users to form private “smoking” clubs where marijuana users could gather and use marijuana. The goal of the initiative is to provide medical marijuana that qualifying patients and their caregivers may administer for medical purposes, not to establish private marijuana use clubs. Private “smoking clubs” create opportunities to divert medical marijuana to illicit use, and pose a safety and security threat to the communities in which they are located.

Implementation:

Modify R9-17-101(18)(a) to read as follows: “[Public place:] Means any location, facility, or venue that is not intended for the regular exclusive use of an individual or the non-commercial use of a specific group of not more than 5 individuals.”

PATIENTS, CAREGIVERS AND DISPENSARY AGENTS, CONT.

7. The Rules and statute should clearly state that the use of medical marijuana by Visiting Qualifying Patients should be limited to only those conditions and circumstances allowed to Patients under Arizona law.

Rationale:

With the exception of obtaining marijuana from a dispensary, A.R.S. §36-2804.03(C) limits the rights of a Visiting Qualifying Patient to the rights of a registration card holder in Arizona. Thus this section limits the medical conditions that qualify a Visiting Qualifying Patient for the protections of the initiative to those conditions that qualify an Arizona patient for a registration card. The Visiting Qualifying Patient should be required by statute to provide proof that they medically qualify for a registration card under Arizona law.

A Visiting Qualifying Patient's is also limited to cultivation of marijuana by those that are residents of Arizona for less than 30 days and that reside outside of the 25 mile dispensary limit, and only for the 30 day limit. A Visiting Qualifying Patients that does not reside in Arizona is not allowed to cultivate marijuana, because they do not have a residence in the state (see Patients, Caregivers and Dispensary Agents #3, above). Statutory changes should make this clear.

Implementation:

DHS should propose legislation that requires a Visiting Qualifying Patient to prove they have a Debilitating Medical Condition as defined by A.R.S. §36-2801(3) before they are given the same protection as a registry card issued by DHS. The legislation should also clarify that cultivation of marijuana by a Visiting Qualifying Patient is a criminal offense.

IV. MEDICAL PROFESSIONALS

1. Policy Statement

Three different types of medical professionals are authorized to provide certification for medical marijuana use under the initiative. All are governed by a different licensing board, and none of the licensing boards actively govern their respective charges with regard to medical marijuana. Unless DHS monitors the activities of these medical professionals, there is no central authority to monitor and govern the actions of medical professionals authorized to certify medical marijuana use under the initiative.

Under the initiative, DHS is charged with regulating possession and use of medical marijuana. DHS thus has the authority to qualify medical professionals designated under the act as appropriate to issue certification for medical marijuana use. Such a system would ensure a centralized authority to monitor medical professionals for abusive or illicit issuance of certifications, preventing fraud and abuse.

MEDICAL PROFESSIONALS, CONT.

2. Medical professionals that wish to issue medical marijuana certificates must be registered with DHS in order to issue certifications and a reasonable fee should be charged.

Rationale:

Registration with DHS would allow the Department to determine the qualifications of medical professionals that wish to certify medical marijuana use. DHS can examine proof of the medical professional's certification as a medical doctor, osteopath, or naturopath, and of their primary practice in Arizona. DHS can determine if the medical professional is currently undergoing discipline or substance abuse counseling. DHS can determine the number of patients the medical professional has certified for marijuana use, and can monitor the number and quality of contacts between the patient and the medical professional. DHS can monitor the number and justification for certifications of smokeable medical marijuana use.

Implementation:

Create Article 4 for the Medical Marijuana Program in DHS Rules that governs medical professionals wishing to issue medical marijuana certifications in Arizona. Medical professionals must meet the following requirements:

- (a) DHS must create and administer a medical professional certification registry.
- (b) Qualified medical professionals that wish to issue certificates under the initiative must register annual with DHS and pay a reasonable annual fee to offset the cost of registry administration.
- (a) Medical professionals must be Arizona licensed in and primarily practice in Arizona.
- (b) No more than 30 active patient registry cards may be issued based on the certification of an individual medical professional at any one time.
- (c) Medical professionals must see their certified patient at least once every 6 months, face to face, and document they have done so in annual certifications.
- (d) Medical professionals may not issue certificates to themselves or immediate family.
- (e) Medical professionals undergoing discipline or substance abuse problems must not be authorized to certifications.

(f) Medical professionals recommending the patient be dispensed a smokeable form of marijuana, must provide a statement detailing the at least 3 efforts of the medical professional and patient to administer infused marijuana, a statement detailing why such attempts were unsuccessful, and a declaration from the medical professional why only smokeable marijuana will alleviate the patient's condition.

MEDICAL PROFESSIONALS, CONT.

3. The medical professional issuing the certification should be given the authority to revoke a patient's certification at any time. In addition, the medical professional should be required to revoke if they haven't seen the patient within 6 months.

Rationale:

Medical marijuana is the narrow exception to the criminalization of marijuana in Arizona. In addition to rules requiring previous and ongoing relationship between a certifying medical professional and a patient, the medical professional must be able to de-certify a patient if they believe the patient no longer qualifies for medical marijuana. In addition, the medical professional must de-certify the patient if they have not seen the patient within 6 months.

Once de-certified, the patient must be presumed to no longer qualify for medical marijuana unless re-certified by two different medical professionals that are aware of the previous de-certification. This would insure that patients are seeing their medical professionals on a regular basis, and insure that medical marijuana is continued to be needed by the patient. It would also encourage medical professionals to act ethically in certifying, and prevent "doctor shopping." If certification is revoked, the patient must present certifications from two other medical professionals, both of whom state they are aware of the patient's certification revocation, before a new registry card may be issued.

Implementation:

(a) Add to new Article 4 a requirement that the medical professional must notify the Department within 3 business days if the patient no longer qualifies for certification for medical marijuana, or if the medical professional has not had a face to face contact with the patient for more than 180 days.

(b) Add R9-17-205(I) to require the Department to revoke a Qualifying Patient's Registry Identification Card upon notification by the certifying medical professional that the patient no longer qualifies for certification or that the medical professional has not had a face to face contact with the patient for more than 180 days.

(c) Add to R9-17-202, 203, and 204 a section that requires certification from two medical professionals for any person applying for a registry identification card after having had a previous one revoked under R9-17-205(I), and require both certifications state that the medical professional is aware of the grounds for prior de-certification.

V. LEGISLATIVE ACTION

1. The legislature should set a presumptive THC metabolite level for impairment (similar to presumptive blood alcohol level) effective in situations of driving, machinery operation and employment

Rationale:

The initiative authorizes the use of marijuana for medical purposes, but does not allow a user to be impaired while employed or operating automobiles or other machinery. Use of marijuana impairs a person's ability to operate automobiles and other machinery, and to properly perform their job. Impairment is difficult to determine without presumptive standards. Marijuana impairment can be compared to use of alcohol, which is legal but impairment is not allowed when a person is operating automobiles or other machinery or by most employers. Levels of presumptive alcohol impairment are codified in law so employers and law enforcement may more easily determine if a person is impaired.

Scientific tests are available to determine the level of Tetrahydrocannabinol (THC) the active ingredient in marijuana, and standards exist that prove a person is impaired at blood levels of THC of 2.0 nanograms per milliliter (ng/ml) or greater. Presumptive levels of marijuana impairment for both employment and operation of automobiles and other machinery must be adopted by the legislature in order to allow employers and law enforcement to quickly and easily determine if probable cause exists that a person is impaired, and to take appropriate action to protect the person, the employer, and the public.

Implementation:

DHS must propose legislation that sets a presumptive level of marijuana impairment at a concentration of 2.0 ng/ml of blood THC for purposes of operating automobiles or other machinery, and for purposes of employment.

LEGISLATIVE ACTION, CONT.

2. The legislature should set enhanced penalties for cardholders, caregivers, and dispensary agents that produce, transport, sell, or possess marijuana outside of the terms of their authority granted by the initiative.

Rationale:

Arizona has a strong public policy against marijuana. The initiative has carved out a narrow exception to that policy for medical use. To uphold Arizona's prohibition against marijuana, it is imperative that those individuals granted access to marijuana through the initiative be strongly discouraged from using their access to marijuana to add to the supply of illicit marijuana in the state, or to supply it to those without authorization to possess marijuana. One of the best ways this may be accomplished is for the legislature to specify and clarify what constitutes illegal marijuana activity by dispensaries, cardholders and caregivers, and to enhance the punishments for those offenses. Such legislation will discourage dispensaries, cardholders and caregivers from using their access to marijuana for illicit purposes. Offenses should include cultivation without permission, transfer of marijuana to those not entitled to possession, consuming, transporting, selling, cultivating marijuana without the appropriate registry card in immediate possession.

Implementation:

DHS, working with state and law enforcement officials, should draft and propose legislation that provides specific and enhanced criminal penalties for dispensaries, cardholders and caregivers using or transferring marijuana in ways unauthorized by the initiative or regulation.

LEGISLATIVE ACTION, CONT.

3. The legislature should impose criminal penalties for smoking marijuana in public.

Rationale:

The initiative forbids smoking marijuana in public, but provides no penalty. Smoking of marijuana in public encourages its illicit use, and exposes marijuana to children. Since marijuana use in public is not authorized by the initiative and is a criminal activity in Arizona, smoking of marijuana in public by a cardholder should be made a serious criminal act.

Implementation:

DHS, working with state and law enforcement officials, should draft and propose legislation that provides specific and enhanced criminal penalties for cardholders smoking marijuana in public.

LEGISLATIVE ACTION, CONT.

4. The legislature should impose criminal penalties for smoking marijuana in the presence of children.

Rationale:

Children exposed to marijuana use are desensitized to the hazards of marijuana use, and are more likely to use marijuana illegally in the future. Children exposed to marijuana smoke will suffer the same health hazards as exposure to tobacco smoke. Smoking marijuana in the presence of children should be made a serious criminal act.

Implementation:

DHS, working with state and law enforcement officials, should draft and propose legislation that provides specific and enhanced criminal penalties for cardholders smoking marijuana in the presence of those under the age of 18.